ANNUAL REPORT
2012

Office of the
Conflict of Interest
Commissioner
Paul D. K. Fraser, Q.C.

British Columbia

BRITISH COLUMBIA

Office of the Conflict of Interest Commissioner

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Annual Report 2012

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Conflict of Interest
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Commissioner

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BRITISH
COLUMBIA

April, 2013

The Honourable Bill Barisoff, MLA
Speaker of the Legislative Assembly
of British Columbia
Room 207, Parliament Buildings
Victoria, British Columbia V8V 1X4

Dear Mr. Speaker,

It is an honour to present the Annual Report of the Office of the Conflict of Interest Commissioner for 2012.

This Report is submitted pursuant to section 15 of the *Members' Conflict of Interest Act*, Chapter 287 of the Revised Statutes of British Columbia.

Sincerely,

Paul D. K. Fraser, Q.C.
Conflict of Interest Commissioner

Table of Contents

COMMISSIONER'S MESSAGE 1

OVERVIEW 2

THE COMMISSIONER'S ROLE 3

ADVICE AND OPINIONS 4

DISCLOSURE PROCESS 6

RESPOND TO ALLEGATIONS CONCERNING MEMBERS 9

COMMUNICATIONS, OUTREACH AND EDUCATION 11

EVENTS OF NOTE IN 2012 13

PRIORITIES FOR 2013 17

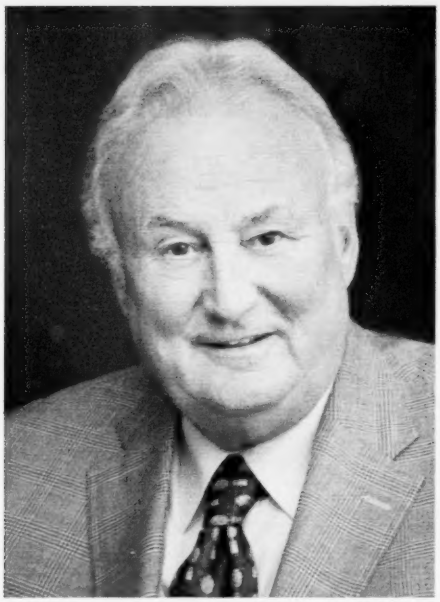
BUDGET AND FINANCIAL INFORMATION 20

ACKNOWLEDGEMENTS AND APPRECIATION 21

APPENDICES 23

COMMISSIONER'S MESSAGE

Paul D. K. Fraser, Q. C.



2012 was a significant year in the work of the Office. The existing *Members' Conflict of Interest Act* (the "*Act*") has no mandatory review provisions. Over the years there have been several suggestions for amendments. The last voluntary legislative review of the *Act* took place in the late 1990s and resulted in a thoughtful and considered report in 1999 from a Select Standing Committee of the Legislative Assembly. The many recommendations for potential amendments were not acted upon.

Thirteen years later, in the spring of 2012, the same Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills, decided to undertake a comprehensive review of the *Act*. The Committee consulted with the public and with experienced independent participants in the field. I thank the Committee for fully including our Office in its consultations and for providing us with the opportunity to make both written and oral submissions. The Committee's report is expected to be tabled in the House during the 2013 spring session.

As it turned out, 2012 was a year when both Canada and Alberta were involved in mandatory reviews of their Conflict of Interest legislation. So, there has been a stimulating exchange of views around the country. Pollination of ideas is always valuable. Cross-pollination across jurisdictions is even more interesting.

In the year ahead we look forward to the Office continuing to enjoy the support and co-operation of the Members. We also appreciate the interest of the public in our work. In British Columbia, unlike the majority of other jurisdictions in the country, members of the public have the ability to access our Opinions process. We will continue to maintain an active and current website as a way of informing the Members of the Legislative Assembly and the citizens of British Columbia.

OVERVIEW

Members of the Legislative Assembly are expected to act in the public interest at all times, and must not use their official position for personal gain or advantage.

Holding elected office is a public trust. The rules governing conflict of interest for Members are set out in the *Members' Conflict of Interest Act* (the *"Act"*) and ensure that those who are elected to public office are held to high standards of conduct. The *Act* is annexed to this Report as Appendix A.

A "conflict of interest" arises when a Member's duty to act in the public interest is or may be affected by his or her private interests. In most cases, a "private interest" will be pecuniary in nature. However, a private interest can also be non-pecuniary, providing it confers a real and tangible benefit on the Member.

Members must avoid both actual and apparent conflicts of interest, and must arrange their private affairs to prevent such conflicts from arising. Members are required to resolve any conflicts which do arise promptly and transparently.

In addition to the general prohibition against actual or apparent conflicts of interest, Members must not:

Use **insider information** (s. 4)

> *A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.*

Use their **influence** inappropriately (s. 5)

> *A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest.*

Accept **extra benefits** (s. 7)

> *A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.*

THE COMMISSIONER'S ROLE

The Conflict of Interest Commissioner is an independent, non-partisan Officer of the Legislative Assembly who is responsible for impartially administering the *Members' Conflict of Interest Act.*

In British Columbia, as in most parliamentary democracies, there are several statutory Officers of the Legislature (such as the Auditor-General) whose work is essential to ensure accountability and promote good governance. However, the Conflict of Interest Commissioner is the only Officer of the *Legislative Assembly.* This is an important distinction.

The "legislature" is understood to be the Queen's representative acting on the advice of the legislative body. Officers of the Legislature are responsible for holding the government accountable to the citizens of the province in the exercise of the government's legislative functions. In contrast, the Legislative Assembly is the body of MLAs standing on its own. The Conflict of Interest Commissioner is dedicated exclusively to the service of the Legislative Assembly itself in respect of Members' conduct expectations and discipline. As a result, the records contained in our Office remain confidential as part of the legislative privilege which we enjoy as a matter of law.

The Commissioner has **three primary roles**:

Provide Advice and Opinions	• Provide confidential advice to Members about their obligations under the *Act*
Oversee Disclosure Process	• Meet with each Member at least annually to review the disclosure of the Member's financial interests
Respond to Allegations	• Respond to requests for opinions regarding compliance and/or allegations of contraventions of the *Act,* and potentially conduct an Inquiry

ADVICE AND OPINIONS

The focus of the Commissioner's work is to help Members understand their obligations under the *Act* and provide guidance to prevent conflicts of interest from arising or persisting.

Arguably, the Commissioner's most important function is his **advisory role**. It is imperative that Members feel comfortable approaching the Commissioner with questions before taking a course of action that could lead to suggestions of impropriety. This proactive approach has served both Members and the public well, as confidence in elected officials and the political system as a whole is increased when conflicts of interest can be identified and avoided.

Under s. 18 of the *Act*, Members may request that the Commissioner provide a formal written opinion on a conflict of interest matter, and are encouraged to do so if in any doubt about their obligations under the *Act*. This advice remains confidential unless the Member decides to release it. The Commissioner is also available to provide confidential oral advice to Members.

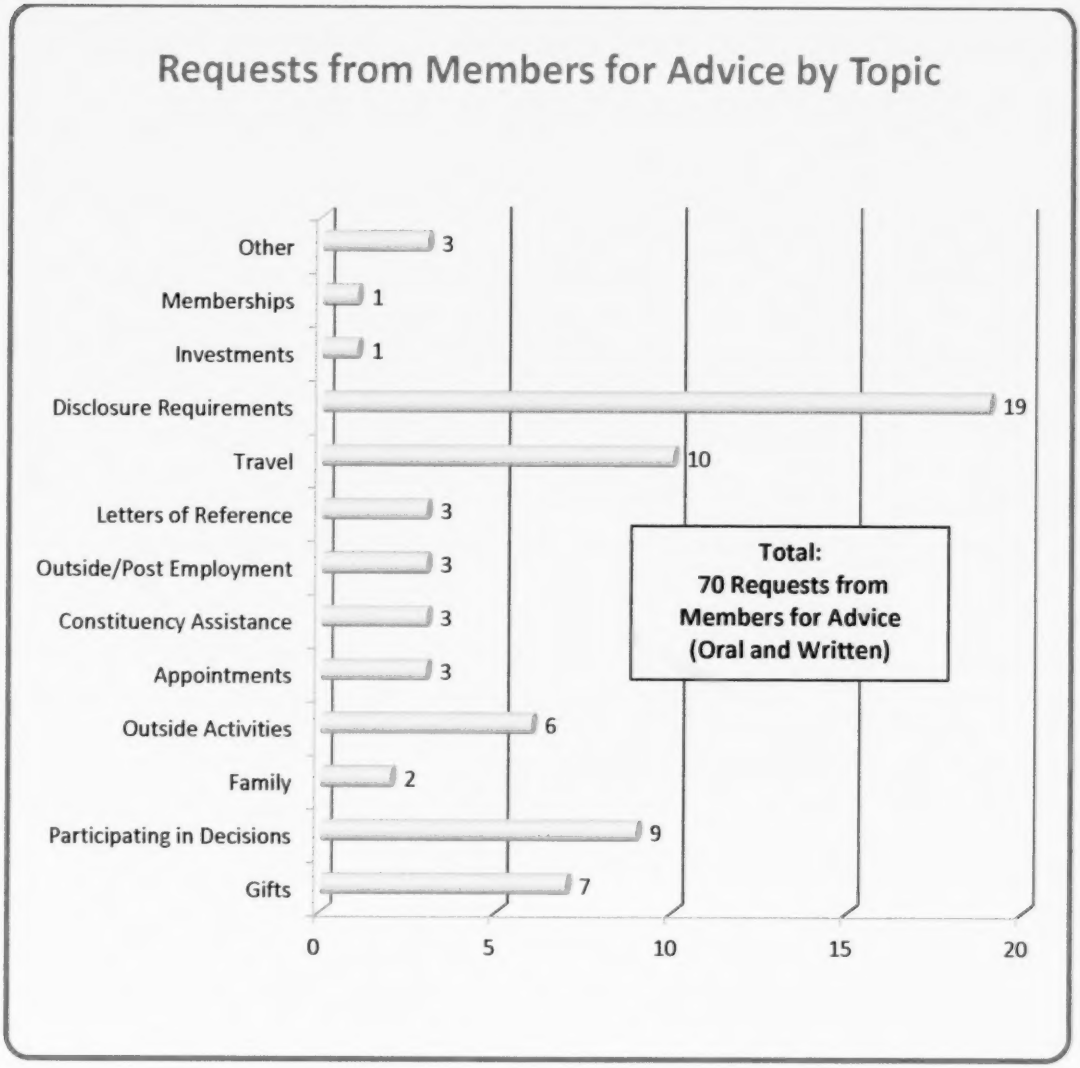
If the Commissioner determines that a Member has or may have a conflict of interest, he can make recommendations and specify a timeframe for compliance.

Time to Respond to Requests from Members for Advice

Median	Average
2 business days	10 business days

Our Office receives a great variety of requests for advice from Members and their staff. Some requests are informal and do not proceed beyond the initial phone call or email to the Commissioner. Others are more substantial and may require multiple communications back and forth with the Member, involve background research, and result in a written response.

A breakdown by topic of the requests for advice received in 2012 is shown below:



In addition to responding to requests for advice in relation to specific matters, we frequently provide general information to Members about their obligations and provide assistance with disclosure, reporting and procedural matters. The Commissioner also engages in numerous outreach interactions and exchanges with Members throughout the year. From time to time, prospective candidates for provincial office seek information about their obligations should they be elected.

DISCLOSURE PROCESS

Within 60 days of being elected, and annually thereafter, each Member must file a confidential disclosure statement with the Commissioner.

Each year, all 85 Members of the Legislative Assembly must complete a **Member's Confidential Disclosure Statement** ("CDS") which contains a statement of the nature of the assets, liabilities and financial interests belonging to the Member and his or her spouse. Separate disclosure forms are required if the Member has any minor children, and if the Member, his or her spouse or minor child, has a controlled private corporation. The content of the CDS is proscribed by the regulation to the *Act*.

A key difference between British Columbia and many other jurisdictions is that under British Columbia's legislation, disclosure statements are qualitative rather than quantitative. That is, Members must disclose the *nature* of the assets, liabilities, and financial interests, not the value nor the amount or the worth of those interests.

The annual disclosure process typically occurs between August and December each year. The Commissioner advises Members of the deadline to submit their disclosure forms, which in 2012 was in early September. Members' completed CDSs remain securely and exclusively with our Office.

Electronic Disclosure

In 2012, the Conflict of Interest Office implemented an electronic filing system to replace the highly manual and labour-intensive paper-based disclosure process. Members now receive their disclosure forms in electronic format, with the contents of the previous year's disclosure statement already filled in. This allows Members to easily update their information and submit the updated forms to our Office. This process has resulted in less paper usage and administrative overhead, while at the same time increasing accuracy and improving data security. Feedback from Members was positive, finding the new process much faster and easier.

In 2013, we will continue to further streamline the disclosure process to make it even simpler and more user-friendly.

Meeting with the Commissioner

Once the Member's confidential disclosure forms have been received and reviewed by our Office, a **meeting** between the Member and the Commissioner is arranged. At the meeting, the Commissioner reviews the Member's disclosure statements with the Member to ensure accuracy and to discuss any questions or concerns.

This annual meeting also provides an opportunity for the Commissioner to identify and resolve any potential conflicts of interest and to ensure that Members have arranged their private affairs in accordance with the *Act*.

In 2012, disclosure meetings were held in Victoria, Vancouver and Surrey from August to November.

Public Disclosure Statement

Once the contents of the confidential disclosure statements have been finalized and acknowledged to be accurate, **Public Disclosure Statements** (PDS) are prepared by our Office.

The PDS contains most, but not all, of the information contained in the Member's confidential disclosure statement, as well as a statement of any gifts or benefits that have been disclosed to the Commissioner since the Member's last filing. Certain information is excluded from the PDS, such as the Member's residential address and other personal information.

Members' PDSs are all filed together on the same date with the Clerk of the House, where they are available for public inspection. Members' 2012 PDSs were filed with the Clerk on November 30, 2012.

Ongoing Disclosure Obligations

Material Changes

After Members have filed their annual confidential disclosure statements, they have an ongoing obligation to report any material changes to their financial interests within **30 days** of the change occurring.

> *A **"material change"** is defined as an acquisition or disposition, whether in whole or in part, occurring after the Member has filed a disclosure statement, of any asset, liability, financial interest or source of income by the Member, his or her spouse or minor children, or a private corporation controlled by any of them, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed.*

After reviewing the Member's material change form, our Office prepares a Notice of Material Change which is then filed with the Clerk of the Legislative Assembly, where it is filed with the Member's most recent PDS. A copy of the Notice is also sent to the Member.

Gifts and Personal Benefits

Members are prohibited from accepting gifts or personal benefits in connection with the performance of their official duties. However, there is an exception for gifts or personal benefits received "as an incident of protocol or social obligations". In most cases this means a token expression of appreciation or complimentary hospitality in the context of some official interaction.

Before accepting a gift, Members must consider whether accepting the gift would – or would appear to – place the Member under an obligation to the donor.

Members are required to disclose and provide details of any gifts or personal benefits they have received if the value of the gift exceeds **$250,** or if the combined value of multiple gifts from the same donor exceeds $250 in a twelve month period. A summary of gifts received is included in the Member's PDS.

RESPOND TO ALLEGATIONS CONCERNING MEMBERS

British Columbia is one of the few jurisdictions in Canada where members of the public may request the Commissioner's opinion regarding a Member's compliance with the *Act*.

Under s. 19 of the *Act*, the Commissioner may provide an opinion about a Member's compliance with the *Act* or section 25 of the *Constitution Act* in response to a request from a member of the public, a Member of the Legislative Assembly or Executive Council, or the Legislative Assembly. The Commissioner has considerable discretion in the manner in which he conducts his inquiries.

Typically when concerns about a Member's compliance are brought to his attention, the Commissioner first gathers information informally to determine if there are reasonable and probable grounds to support the allegations. The Commissioner then determines whether to proceed to the formal Inquiry stage or dismiss the allegations as unwarranted.

If the Member is found in contravention of the *Act,* the Commissioner may recommend a penalty. Possible penalties include a reprimand, suspension, fine of up to $5,000, or a declaration that the Member's seat be declared vacant until an election is held in the Member's electoral district. While the Commissioner may recommend penalties against a Member, it is up to the Legislative Assembly to accept or reject the recommendation.

Formal Requests for Opinions (s. 19)	
From MLAs	1
From public (jurisdictional)	6
From public (non-jurisdictional)	11
TOTAL	**18**

In 2012, our Office received one request from a Member respecting the compliance of another Member, as described on the following page.

Request for Opinion Concerning the Honourable Christy Clark, Premier

John van Dongen, MLA (Abbotsford South) requested the Commissioner's opinion about the past conduct of the current Premier, the Honourable Christy Clark when, in 2003, she was Deputy Premier and Minister of Education. Mr. van Dongen provided initial materials to our Office on September 21, 2012, and his completed materials on October 19, 2012. The allegations related to matters involving the privatization of BC Rail in 2003.

Mr. van Dongen alleged that the Premier contravened the Act in the following manner:

(a) by exercising an official power or performing an official duty or function when she had a conflict of interest or an apparent conflict of interest, contrary to s. 3 of the Act;
(b) by having a conflict of interest in a matter before the Executive Council, and while present at a meeting considering that matter, she failed to disclose the general nature of the conflict of interest, and failed to withdraw from the meeting without participating in the consideration of the matter, contrary to s. 10(1) of the Act; and
(c) during the exercise of an official power and the performance of an official duty or function as a member of the Executive Council, when a matter arose with respect to which she had a conflict of interest or apparent conflict of interest, she failed to refrain at all times from attempting to influence the matter, and failed (at a meeting of the Executive Council at which the matter was considered) to disclose the general nature of her private interest and to withdraw from the meeting without participating in the discussion, contrary to s. 11(1) of the Act.

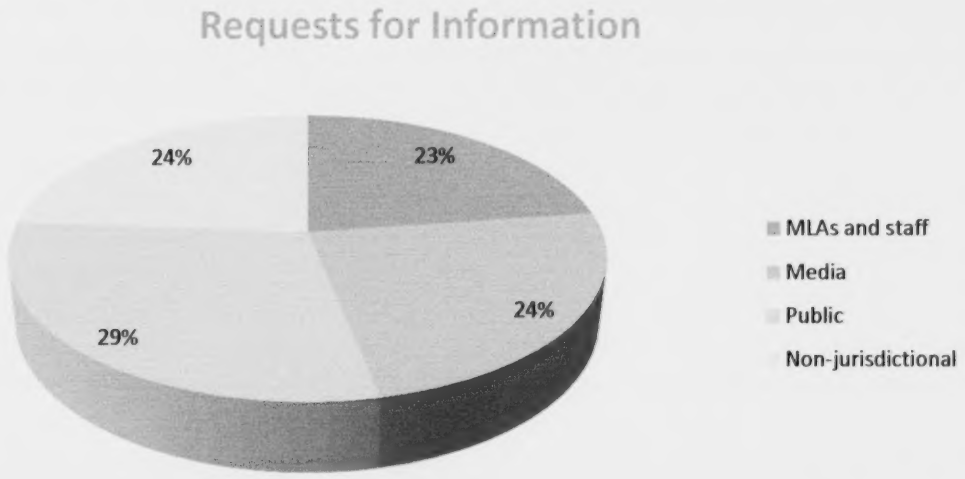
Shortly after Mr. van Dongen made his request public, he expressed a concern to the media that he had an apprehension of bias on the part of the Commissioner as a result of a familial connection. Given the importance of perception in providing an opinion in which the public and legislators could have confidence, the Commissioner determined that he would recuse himself from any further substantive involvement in the matter, and retained Mr. Gerald L. Gerrand, Q.C. to deal with Mr. van Dongen's complaint.

Mr. Gerrand is the current Conflict of Interest Commissioner for the Northwest Territories and the former Conflict of Interest Commissioner for Saskatchewan. A copy of the press release issued November 13, 2012 announcing Mr. Gerrand's appointment is available on our website, www.coibc.ca. Mr. Gerrand commenced his work shortly thereafter and his Opinion is expected to be released in 2013.

COMMUNICATIONS, OUTREACH AND EDUCATION

The Commissioner and staff engage in a variety of communications, outreach and education activities

Throughout the year, our Office responds to many requests for general information from Members, their staff, the media and the general public. When we receive requests that relate to matters beyond the Commissioner's jurisdiction, we do our best to refer individuals to the appropriate agency.



Time to Respond to Requests

	Median	Average
General Information	Same day	Same day
Advice – Oral and Written (s. 18)	2 business days	10 business days
Formal Requests for Opinions (s. 19)*	1 business day	6 business days

*does not include request for Opinion from John van Dongen, MLA (see p. 10)

Other Activities

Each year the Commissioner meets with Legislative Interns who have been selected for the BC Legislative Internship Program. The Program has been sponsored for more than 30 years by the Legislative Assembly and the exchange is a valuable experience for both the Interns and the Commissioner.

From time to time, the Commissioner issues interpretive memos and other publications which provide guidance on specific conflict of interest issues. Topics have included writing letters of reference, accepting gifts, post-employment issues, and accepting complimentary tickets and memberships. Such publications are sent to all Members, as well as being posted on the Office's website.

In recent years the Office has made several improvements and updates to our website. In addition to providing general information about the Office and the role of the Commissioner, Members' blank disclosure forms are accessible as are all previous annual reports, ethics bulletins, publicly released opinions and news releases.

EVENTS OF NOTE IN 2012

Review of the Act

British Columbia was one of the first provinces to enact comprehensive conflict of interest legislation in Canada. The *Members' Conflict of Interest Act* was enacted in 1990 and apart from some significant amendments in 1992, has remained virtually unchanged since that time. However, over the past twenty years, conflict of interest issues have continued to evolve.

The *Act* was last reviewed in 1999. Although several recommendations for amending the *Act* were proposed at that time, none were implemented.

In the spring and summer of 2012, the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills (the "Committee") conducted a long overdue comprehensive review of the *Act*. Our Office welcomed the opportunity to present to the Committee and offer our suggestions for possible amendments to the *Act*. Links to transcripts of the Committee's hearings are available at https://www.leg.bc.ca/cmt/39thparl/session-4/parref/index.htm .

The Commissioner identified several areas for possible amendment, including the following:

Ethics and Integrity

Most jurisdictions in Canada now include Members' integrity and ethical behaviour in some manner or another in their legislation. British Columbia is one of the few jurisdictions which does not.

As it stands, there is no recourse when a Member's conduct is ethically questionable but does not breach an existing provision of the *Act*. As noted by former Commissioner Hughes, "conflict of interest is a matter of ethics but not all matters of ethics relate to conflict of interest". We recommended that the *Act* be revised to articulate standards of ethical conduct that encompass matters beyond pure conflict of interest, and include a mechanism to hold Members accountable to those standards. If these changes are made and a more comprehensive ethical framework is established, it follows that it would be appropriate to rename the *Act* and the Commissioner's title to include "Ethics" or "Integrity", to reflect this broader mandate.

Jurisdiction Over Other Public Office Holders

British Columbia's legislation applies exclusively to Members of the Legislative Assembly. However, other senior government officials are also privy to confidential information and may potentially exert influence over policy decisions and legislative initiatives. Accordingly, we suggested that the Committee consider whether political staff such as ministerial assistants, Chief of Staff in the Office of the Premier, Deputy Ministers and CEOs of Crown Corporations and/or Agencies should also be subject to the *Act*.

Post-Employment Matters

Section 8 of the current *Act* addresses various aspects of the relationship between government and former Members of Executive Council and former Parliamentary Secretaries ("Ex-Office Holders") relating to employment, contractual relationships, or the extension of benefits. As the *Act* is currently written, there are no provisions monitoring compliance and the Commissioner does not have jurisdiction if an Ex-Office Holder contravenes s. 8. The only recourse is that he or she can be charged in provincial court.

We recommended that the *Act* be amended to include binding post-employment rules which would apply to a wider range of public office holders. Key elements of a pro-active post-employment regime might include a requirement that public office holders disclose to the Commissioner the nature of any post-employment prior to taking up that employment; mandatory disclosure of post-employment activities, including the identities of entities with whom a public office holder is seeking, negotiating, or has been offered employment; and making failure to disclose an offence.

Legislative Privilege

The Conflict of Interest Commissioner is erroneously identified as an Officer of the Legislature in the *Freedom of Information and Protection of Privacy Act (FOIPPA)*. However, as an Officer of the Legislative Assembly, the Commissioner's documents are clothed with an absolute legislative privilege and as such are not subject to demands or requests under *FOIPPA*. Accordingly, we recommended amending the *Act* and *FOIPPA* to remove any confusion in this regard.

Miscellaneous

The Commissioner identified several other topics for the Committee's consideration, including:

- Inclusion of a provision governing the retention and destruction of records held by the Commissioner's office;
- Mandatory review of the *Act* every five to seven years;
- Online access to Members' Public Disclosure Statements;
- Suspension of an Inquiry in the event that the same matter is the subject of a criminal investigation; and
- Ability to continue an investigation, or initiate an investigation, after a Member ceases to be a Member.

Office Move

In February 2012, we moved into a more suitable office space that is, like our previous office space, conveniently located in the legislative precinct. These premises better suit our needs, as our previous office space was unable to accommodate all staff members. Although the new space is larger, there was minimal impact on our budget as our rent and operational costs did not increase.

Meeting With Colleagues

Our Office is part of the **Canadian Conflict of Interest Network** (CCOIN), which includes the federal Conflict of Interest and Ethics Commissioner, the Senate Ethics Officer, and the Commissioners from all Canadian provinces and territories. Business meetings of the group are held annually in September, and are a valuable opportunity to exchange information on issues of common interest and to review legislative and regulatory similarities, differences and trends.

In 2012, the annual CCOIN conference was held in Fredericton, New Brunswick from September 6-9. Delegates from across the country discussed their mandates and operations, and their relationships with other legislative offices in their jurisdictions.

PRIORITIES FOR 2013

Welcoming New Members

A general election will be held on May 14, 2013. Under s. 16(1) of the *Act,* every Member must file a confidential disclosure statement with the Commissioner within **60 days** of being elected and annually thereafter.

We expect many new Members to join the Legislative Assembly. Thanks to our new electronic filing system, returning Members will simply need to update their 2012 disclosure statements. However, new Members who will be submitting detailed statements for the first time will likely require guidance from our Office staff throughout the disclosure process.

The Commissioner and staff are looking forward to meeting the new Members and assisting them to understand their obligations under the *Act.* This may involve giving presentations to party caucuses, holding workshops, issuing publications, and meeting individually with Members.

Potential Amendments to the Act

As noted earlier, the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills conducted a comprehensive review of the *Act* in spring and summer 2012. We look forward to the release of the Committee's Report in 2013 and to participating in any further discussions if any legislative amendments are proposed.

Depending on the recommendations of the Committee, there may be significant impacts on the Office's operations and resources.

Projects

Online Disclosure Project

The changes made in 2012 to the disclosure process were well received by Members. As our Office's staff pre-completed the Members' forms, Members simply had to review their forms, make any necessary updates, and submit the automatically created email to our Office. This same process was used for the Members' Public Disclosure Statements (PDS). Our Office received many positive comments from Members about the new, easier process.

Enhancements for 2013 include hosting the Members' forms and PDSs on a secure network. This approach will not only result in fewer emails, increased administrative efficiency, and greater data security, but an even easier process for the Members. Design and development work on this Project is currently underway.

Opinions Database Project

Our Office has a paper-based records retention system for over 1,500 opinions, advice letters, and memos to file. It is onerous to use, making the retrieval of information needed, often on an urgent basis, difficult and time-consuming.

This Project entails designing and building a comprehensive and functional database in order to provide accurate and expedient information retrieval for the Commissioner and Office staff. Until a database can be designed, developed, and implemented, the existing index is being re-built to make it more usable.

Updating Office Technology Project

Our Office generates and houses a vast amount of paper and online information. Over the years, preparing, locating, distributing, filing and overall management of this information has become highly manual and labour-intensive, resulting in complex procedures and duplication of work.

This Project has two components: first, to streamline our administrative procedures and processes to better manage our paper and electronic documents and emails; and second, to archive historical paper documents and re-organize the stored electronic documents and emails.

This Project, which is currently underway, will increase efficiency and take advantage of current technologies.

Meeting With Colleagues

In March 2010, the federal Office of the Conflict of Interest and Ethics Commissioner accepted a coordination role in the Canadian Conflict of Interest Network (CCOIN), which includes federal, provincial and territorial commissioners.

The federal Office will be hosting the next meeting of CCOIN members, which will be held in Ottawa in September 2013. The Commissioner looks forward to meeting with his counterparts from across the country, as it is an invaluable opportunity to exchange information and learn about best practices and developments in other jurisdictions.

BUDGET AND FINANCIAL INFORMATION

The Select Standing Committee on Finance and Government Services ("the Committee") has the responsibility for considering and making recommendations to the Legislative Assembly on the budgets of this Office.

Summary

For fiscal year 2011/12, we received a budget appropriation of $480,000. The actual total cost of our operations for the year was $459,868, $20,132 under budget. Budget savings were realized primarily as a result of reduced travel costs (as the annual CCOIN conference was held in Victoria) and the Legislative Assembly Information Technology Branch (LAITB) providing information technology support at a lower cost than our previous providers.

In 2012/13, our Office was again allocated $480,000. However a budget shortfall is expected due to a number of factors, primarily as a result of the costs associated with the Inquiry which commenced late in the year (see page 10). Additional costs were incurred due to the retirement of our Executive Coordinator, hiring and training a new Executive Coordinator, and our participation in the review of the *Act*.

Our Budget Proposal for 2013/14 – 2015/16 sought an annual budget of $560,000. The increase in our Budget was proposed primarily to address anticipated costs related to the request for a formal opinion received in late 2012, providing services to new Members elected in the 2013 provincial general election, and implementing possible statutory changes. Our Proposal was presented to the Committee on November 14, 2012. The Committee, in its Report dated December 2012, recommended an operating budget of $510,000 in each of the next three fiscal years.

Our Budget Proposal and the Committee's recommendations are annexed to this Report as Appendix B.

ACKNOWLEDGEMENTS AND APPRECIATION

We look forward to our continuing work in the service of the public and the Legislative Assembly of British Columbia.

Current Staff

Alyne Mochan

Ms. Mochan is a lawyer who joined our Office in July 2009, and was appointed as our Legal Officer in 2011. She has been instrumental in preparing our Office publications and conducting necessary research. Her excellent work in support of the review of the *Act* that occurred this past year was particularly valuable.

Corey Ulmer

Ms. Ulmer joined our Office in January 2011. As Projects Officer, Ms. Ulmer provides support and research to the Commissioner and Office staff, and business analysis, technical support, and management of the Office's various projects.

Amber Derricourt

Ms. Derricourt joined our team in July 2012 as our new Administrative Assistant. Ms. Derricourt has worked in a variety of provincial ministries, including the Ministry of Health and the Ministry of Aboriginal Relations and Reconciliation. We are fortunate to have Ms. Derricourt's calm demeanor and welcoming presence in the Office.

Linda Pink

We were pleased to welcome Ms. Pink as our new Executive Coordinator in November 2012. Ms. Pink has served in senior administrative capacities in both the Ombudsperson's Office and in the Office of the Head of the Public Service and Deputy Minister to the Premier. Ms. Pink's professionalism, warmth and sense of humour were well known and appreciated in the Public Service and we are very pleased to have her as a colleague.

Former Staff

Daphne Thompson

Ms. Thompson retired in November 2012 after almost twenty years of dedicated service as the Office's Executive Coordinator. Throughout her exemplary career, Ms. Thompson contributed much to the life and experience of the Office. The Legislative community will miss her unfailing courtesy and ability, for which she has our admiration and thanks.

Karen Howard

Ms. Howard provided much needed temporary administrative support for several months in 2012.

Acknowledgements

During the reporting period, there has been good cooperation from Members and their assistants in arranging disclosure meetings and providing the Office with the information and filings required by the *Act*.

We also appreciate the assistance and support that our Office has received from the Speaker and the Clerk of the House and their respective offices, as well as from the Caucus Chairs and their assistants. Additionally, the Ministry of Finance (Corporate Financial Services and Facilities Branch) has provided financial services assistance to our Office since 2003, for which we are grateful.

The Legislative Assembly Information Technology Branch (LAITB) provides technical support to our Office. Many thanks to the LAITB staff for their advice and assistance, not only with our daily support needs, but also with the help provided during the office move and our ongoing projects. We look forward to continuing to work with LAITB as we update our systems to incorporate current technology.

APPENDICES

A: *Members' Conflict of Interest Act*

B: Budget Proposal and Committee Review/Recommendation – Fiscal 2013/14 - 2015/16

APPENDIX A

MEMBERS' CONFLICT OF INTEREST ACT

APPENDIX B

Budget Proposal and Committee Review/Recommendation
Fiscal 2013/14 - 2015/16

APPENDICES

A: *Members' Conflict of Interest Act*

B: Budget Proposal and Committee Review/Recommendation – Fiscal 2013/14 - 2015/16

APPENDIX A

MEMBER'S CONFLICT OF INTEREST ACT

MEMBERS' CONFLICT OF INTEREST ACT
[RSBC 1996] CHAPTER 287

Contents

Section

1 Definitions
2 Conflict of interest
3 Conflict of interest prohibition
4 Insider information
5 Influence
6 Activities on behalf of constituents
7 Accepting extra benefits
8 Former members of Executive Council and former parliamentary secretaries
9 Carrying on business
10 Procedure on conflict of interest
11 Performance of responsibilities by minister
12 Voidability of transaction or procedure
13 Application for restitution
14 Commissioner
15 Annual report
16 Disclosure statement
17 Public disclosure statement
18 Commissioner's opinions and recommendations
19 Commissioner's opinion on referred question
20 Special assignments
21 Inquiry
21.1 Power to enforce summons and punish for contempt
22 Penalties
23 Protection of commissioner
24 Appropriation
25 *Offence Act*
26 Power to make regulations

Definitions

1 In this Act:

"child" includes a person to whom a member has demonstrated a settled intention to treat as a child of his or her family;

"commissioner" means the person appointed under section 14;

"member" means a member of the Legislative Assembly or of the Executive Council, or both;

"private corporation" means a corporation, all of whose issued and outstanding securities are subject to restrictions on transfer and are beneficially owned directly or indirectly by not more than 50 persons;

"private interest" does not include an interest arising from the exercise of an official power or the performance of an official duty or function that

(a) applies to the general public,

(b) affects a member as one of a broad class of electors, or

(c) concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

"spouse" means a person who is married to a member or a person who is living with a member in a marriage-like relationship, but does not include a person who is separated and living apart from a member and who

(a) has entered into a written agreement under which they have agreed to live apart, or

(b) is subject to an order of the court recognizing the separation.

Conflict of interest

2 (1) For the purposes of this Act, a member has a conflict of interest when the member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

(2) For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

Conflict of interest prohibition

3 A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest.

Insider information

4 A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

Influence

5 A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest.

Activities on behalf of constituents

6 This Act does not prohibit the activities in which members normally engage on behalf of constituents.

Accepting extra benefits

7 (1) A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) If a gift or personal benefit referred to in subsection (2) exceeds $250 in value, or if the total value received directly or indirectly from one source in any 12 month period exceeds $250, the member must immediately file with the commissioner a disclosure statement, in the form prescribed by the regulations, indicating

(a) the nature of the gift or benefit,

(b) its source, and

(c) the circumstances under which it was given and accepted.

Former members of Executive Council and former parliamentary secretaries

8 (1) The Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission, must not knowingly

(a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary, until 24 months have expired after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office,

(b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary who has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit, or

(c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council or former parliamentary secretary has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit.

(2) Subsection (1) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.

(3) Subsection (1) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(4) A former member of the Executive Council or former parliamentary secretary must not, unless 24 months have expired after the date when he or she ceased to hold office,

(a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission,

(b) make representations on his or her own behalf with respect to such a contract or benefit, and

(c) make representations on another person's behalf with respect to such a contract or benefit.

(5) Subsection (4) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.

(6) Subsection (4) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(7) A former member of the Executive Council or a former parliamentary secretary must not make representations to the government in relation to any specific ongoing transaction or negotiation to which the government is a party and in which the former member of the Executive Council or former parliamentary secretary was directly involved if the representation would result in the conferring of a benefit not for general application.

(8) A person who contravenes subsection (4) or (7) commits an offence and is liable, on conviction, to a fine of not more than $5 000.

Carrying on business

9 (1) A member of the Executive Council must not

(a) engage in employment or in the practice of a profession,

(b) carry on a business, or

(c) hold an office or directorship other than in a social club, religious organization or political party

if any of these activities are likely to conflict with the member's public duties.

(2) A person who becomes a member of the Executive Council must comply with subsection (1) within 60 days of being appointed.

(3) The commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension conditions that the commissioner considers just.

(4) If a member of the Executive Council complies with subsection (1) (b) by entrusting his or her business to one or more trustees,

(a) the provisions of the trust must be approved by the commissioner,

(b) the trustees must be persons who are at arm's length with the member and approved by the commissioner,

(c) the trustees must not consult with the member with respect to managing the trust property, and

(d) within 60 days after the formation of the trust, and after that annually, the trustees must provide the commissioner with a confidential report, in a form acceptable to the commissioner, disclosing the assets, liabilities and financial interests contained in the trust.

(5) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

Procedure on conflict of interest

10 (1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Legislative Assembly or the Executive Council, or a committee of either of them, must, if present at a meeting considering the matter,

(a) disclose the general nature of the conflict of interest, and

(b) withdraw from the meeting without voting or participating in the consideration of the matter.

(2) If a member has complied with subsection (1), the Clerk of the Legislative Assembly or secretary of the meeting must record

(a) the disclosure,

(b) the general nature of the conflict of interest disclosed, and

(c) the withdrawal of the member from the meeting.

(3) The Clerk of the Legislative Assembly or secretary of the meeting must file the information recorded under subsection (2) with the commissioner,

(a) in the case of a meeting of the Legislative Assembly or a committee of the Legislative Assembly, as soon as practicable, and

(b) in the case of a meeting of the Executive Council or a committee of the Executive Council, as soon as practicable after the Executive Council's decision on the matter which has been the subject of the disclosure is made public.

(4) The commissioner must keep all information filed under subsection (3) in a central record kept for that purpose and must

(a) make the central record available for inspection by any person without charge during normal business hours, and

(b) on request by any person provide a copy of the record or portion of it on payment of a reasonable copying charge.

Performance of responsibilities by minister

11 (1) If, during the exercise of any official power or the performance of any official duty or function by a member of the Executive Council, a matter arises with respect to which the member has a conflict of interest or apparent conflict of interest, the member must

(a) refrain at all times from attempting to influence the matter, and

(b) at any subsequent meeting of the Executive Council or a committee of the Executive Council at which the matter is considered, disclose the general nature of the private interest and withdraw from the meeting without voting or participating in the discussion.

(2) The Lieutenant Governor in Council may appoint a member of the Executive Council to act in the place of a member referred to in subsection (1) for any matter with respect to which the member referred to in subsection (1) has a conflict of interest or apparent conflict of interest.

Voidability of transaction or procedure

12 The failure of any member to comply with section 10 does not of itself invalidate

(a) any contract or other financial transaction, or

(b) any procedure undertaken by the government with respect to a contract or other financial transaction

to which the failure to comply with section 10 relates, but the transaction or procedure is voidable at the instance of the government before the expiration of 2 years from the date of the decision authorizing the transaction, except as against any person who or organization that acted in good faith and without actual notice of the failure to comply with section 10.

Application for restitution

13 Despite anything in this Act, if any person, whether or not the person is or was a member, has realized financial gain in any transaction to which a violation of this Act relates, any other person affected by the financial gain, including the government or a government agency, may apply to the Supreme Court for an order of restitution against the person who has realized the financial gain.

Commissioner

14 (1) There must be appointed a commissioner who is an officer of the Legislative Assembly.

(2) On the motion of the Premier in the Legislative Assembly and on the recommendation of 2/3 of the members present, the Lieutenant Governor in Council must appoint the person so recommended to the office of commissioner.

(3) The commissioner holds office for a term of 5 years and may be reappointed for a further term or terms.

(4) The commissioner may be removed or suspended before the end of the term of office by the Lieutenant Governor in Council for cause on the recommendation of the Legislative Assembly.

(5) The commissioner must be paid compensation as may be set by the Lieutenant Governor in Council.

(6) If

(a) the commissioner is removed or suspended or the office of the commissioner becomes vacant when the Legislature is sitting but no recommendation under this Act is made by the Legislative Assembly before the end of that session, or

(b) the commissioner is suspended or the office of the commissioner is or becomes vacant when the Legislature is not sitting,

the Lieutenant Governor in Council may appoint an acting commissioner.

(7) The appointment of an acting commissioner under this section terminates

(a) on the appointment of a new commissioner under subsection (2),

(b) at the end of the period of suspension of the commissioner, or

(c) immediately after the expiry of 20 sitting days after the day on which he or she was appointed,

whichever the case may be and whichever occurs first.

(8) The commissioner may employ or retain persons that the commissioner considers necessary and may

(a) specify their duties and responsibilities, and

(b) establish their remuneration and other terms and conditions of employment, or retainer.

(9) The *Labour Relations Code* and the *Public Service Labour Relations Act* do not apply to a person employed or retained under subsection (8).

(10) [Repealed 1999-44-85.]

Annual report

15 The commissioner must report annually on the affairs of his or her office to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly.

Disclosure statement

16 (1) Every member must, within 60 days of being elected, and after that annually, file with the commissioner a confidential disclosure statement in the form prescribed by the regulations.

(2) Subject to subsection (2.1), the disclosure statement must contain

(a) a statement of the nature of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private corporations controlled by any of them, and

(b) any other information that is prescribed by the regulations to be contained in the disclosure statement.

(2.1) The disclosure statement of a member of the Executive Council who has complied with section 9 (1) (b) by entrusting his or her business to one or more trustees need not contain a statement of the nature of the assets, liabilities and financial interests contained in the trust.

(3) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, must meet with the commissioner to ensure that adequate disclosure has been made and to obtain advice from the commissioner on the member's obligations under this Act, and the commissioner may recommend the manner by which the member will comply with those obligations.

(4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the commissioner must ascertain whether any other corporation is an affiliate of the first named corporation, as determined under section 2 (1) to (4) of the *Business Corporations Act*.

(5) If the commissioner determines that there is an affiliate of the first named corporation, he or she must

(a) advise the member of the fact, in writing, and

(b) mention the fact in the public disclosure statement prepared under section 17.

(6) After filing a disclosure statement, the member must continue to disclose any material change in the assets, liabilities and financial interests of the member, the member's spouse and minor children and private corporations controlled by any of them by filing a statement of material change with the commissioner within 30 days of the material change.

(7) In subsection (6), **"material change"** means a material change as defined in the regulations.

Public disclosure statement

17 (1) After meeting with the member, and with the member's spouse if the spouse is available, the commissioner must prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the commissioner, in respect of the member, the spouse and minor children, except

(a) the municipal address or legal description of land that is primarily for the residential or recreational use of the member or the member's spouse or minor children, and

(b) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes.

(2) The public disclosure statement must contain a statement of any gifts or benefits that have been disclosed to the commissioner under section 7 (3).

(3) The commissioner must, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who must

(a) make the statement available to any person for inspection without charge and during normal business hours, and

(b) provide a copy of the statement on payment of a reasonable copying charge.

Commissioner's opinions and recommendations

18 (1) A member may request, by application in writing, that the commissioner give an opinion or recommendation on any matter respecting the obligations of the member under this Act or under section 25 of the *Constitution Act*.

(2) The commissioner may make such inquiries as the commissioner considers appropriate and provide the member with a written opinion and recommendations.

(3) If the commissioner is of the opinion that a member has or may have a conflict of interest, the commissioner may, in the recommendations, specify the time by which the member must resolve the matter.

(4) The opinion and recommendations of the commissioner are confidential, but may be released by the member or with the consent of the member in writing.

(5) If the commissioner determines that a member has not contravened this Act, that determination is final for all purposes of the Act and any proceeding under the Act, so long as the facts presented by the member to the commissioner under subsection (1) were accurate and complete.

Commissioner's opinion on referred question

19 (1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

(2) A member of the public who has reasonable and probable grounds to believe that there has been a contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the alleged contravention.

(3) The Executive Council may request that the commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council or a parliamentary secretary with the provisions of this Act or of section 25 of the *Constitution Act*.

(4) The Legislative Assembly may request that the commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act or of section 25 of the *Constitution Act*.

Special assignments

20 At the request of the Lieutenant Governor in Council or the Legislative Assembly, the commissioner may undertake special assignments that he or she considers appropriate.

Inquiry

21 (1) On receiving a request under section 19, and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

(2) For the purposes of preparing an opinion under section 19 or conducting a special assignment under section 20, the commissioner may order a person to do either or both of the following:

(a) attend, in person or by electronic means, before the commissioner to give evidence on oath or affirmation or in any other manner;

(b) produce for the commissioner a record or thing in the person's possession or control.

(2.1) An order under subsection (2) must be in the form of a summons, served on the person by personal delivery or registered mail to the person's last known address.

(3) If the request for an opinion is made under section 19 (1), the commissioner must report his or her opinion to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly if it is in session or, if not in session, to the Clerk of the Legislative Assembly who must send a copy of it to all members of the Legislative Assembly.

(4) If it appears to the commissioner that the report may adversely affect the member, the commissioner must inform the member of the particulars and give the member the opportunity to make representations, either orally or in writing, at the discretion of the commissioner, before the commissioner finalizes the report.

(5) If the commissioner is of the opinion that the member making the application under section 19 (1) had no reasonable and probable grounds for making it, the commissioner may state that in his or her report, and if he or she does so, the commissioner must report the matter to the Speaker who must lay the report before the Legislative Assembly and the Legislative Assembly may, after considering the matter, hold the member in contempt of the Legislative Assembly.

(6) If the request for an opinion is made under section 19 (3), the commissioner must report his or her opinion to the Secretary of the Executive Council.

Power to enforce summons and punish for contempt

21.1 (1) The commissioner may make an order finding a person to be in contempt, and may impose a fine on or commit the person for contempt, if the person has been served with a summons under section 21 and fails or refuses to do any of the following:

(a) attend before the commissioner;

(b) take an oath or make an affirmation;

(c) answer questions;

(d) produce records or things in the person's possession or control.

(2) The commissioner may call on the assistance of any peace officer to enforce an order made under this section, and, if called on, the peace officer may take any action that is necessary to enforce the order and may use such force as is reasonably required for that purpose.

Penalties

22 (1) If the commissioner finds

(a) after an inquiry under section 21 that a member has contravened section 3, 4, 5, 7, 8, 9 or 10 (1), or

(b) that a member has refused to file a disclosure statement within the time provided by section 16 or that a member has failed to comply with a recommendation of the commissioner under section 16 (3) or 19,

the commissioner may recommend, in a report that is laid before the Legislative Assembly

(c) that the member be reprimanded,

(d) that the member be suspended for a period specified in the report,

(e) that the member be fined an amount not exceeding $5 000, or

(f) that the member's seat be declared vacant until an election is held in the member's electoral district.

(2) The Legislative Assembly must consider the commissioner's report and respond to it as subsection (3) provides

(a) within 30 days after it is laid before the Legislative Assembly, or

(b) within 30 days after the next session begins if the Legislative Assembly is not in session.

(3) The Legislative Assembly may order the imposition of the recommendation of the commissioner under subsection (1) or may reject the recommendation, but the

Legislative Assembly must not further inquire into the contravention or impose a punishment other than the one recommended by the commissioner.

Protection of commissioner

23 No action of any kind lies against the commissioner for anything he or she does under this Act.

Appropriation

24 Money required for the operation of the office of the commissioner may be paid out of the consolidated revenue fund.

Offence Act

25 Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

26 Subject to the approval of the Lieutenant Governor in Council, the commissioner may make regulations prescribing any matter that is contemplated in this Act to be prescribed by regulations.

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APPENDIX B

Budget Proposal and Committee Review/Recommendation
Fiscal 2013/14 - 2015/16

BRITISH
COLUMBIA

Office of the
Conflict of Interest Commissioner

BUDGET PROPOSAL

Fiscal Years
2013/14 – 2015/16

Presented to

The Select Standing Committee on Finance and Government Services

Legislative Assembly of British Columbia

November, 2012

Table of Contents

Background Information 1

Performance Information 3

Allocation and Spending History for the Last Five Fiscal Years 4

Operating Results for the Current Fiscal Year – 2012/12 5

2013/14 Budget Request 6

Statement of Operations 7

Ongoing Operating Budget by Standard Object (STOB) 8

2013/14 Budget by Expenditure Type 9

Notes 10

Background Information

The Mandate

The *Members' Conflict of Interest Act* ("the *Act*") came into effect December 21, 1990, and provides a statutory framework for:

- Defining standards of official conduct for Members of the Legislative Assembly;
- Collecting and publicly disclosing the nature of assets, liabilities and financial interests of all 85 Members, their spouses, minor children, and private corporations controlled by any of them;
- Creating consultation mechanisms for the early identification and resolution of potential conflicts of interest; and
- An opinion request process to deal with alleged real or apparent conflicts of interest.

The Commissioner is an independent Officer of the Legislative Assembly and performs three separate but related roles:

First, as an adviser to Members. MLAs need to know what their obligations are and how to fulfil those obligations.

Second, meeting with each Member at least annually to review the disclosure of the Member's financial interests and the general obligations imposed by the *Act*.

Third, providing opinions in response to requests from MLAs or members of the public respecting compliance or alleged contraventions of the *Act*.

The Vision

- Assist Members with compliance and meaningful disclosure;
- Respond to information and opinion requests by creating an administrative and records system capable of creating, recording, indexing, storing and retrieving information required by the *Act*;
- Education and outreach to members of the public and interested associations or institutions on the provisions and procedures of the *Act*;
- Maintain and enhance an active website with information about the work of the Commissioner's Office.

The Structure

We currently maintain two small office locations: the main office on Menzies Street as part of the Legislative Precinct; and an unstaffed satellite office in Surrey.

We currently have a staff of five people. The Commissioner's appointment is for 75% of his time. We have one full-time staff member who acts as our Executive Coordinator. Currently, we have three part-time contractors: a legal officer on hourly contract; a projects officer and an administrative assistant also on contract.

Performance Information

Generally, requests received in our Office fall into three categories:

1. Requests for Information from Members and members of the public
2. Requests for Advice from Members
3. Requests for Formal Opinions from MLAs or members of the public

Records of the number of requests are kept and reported in the Office's Annual Report to the Legislature.

Requests for Information

The majority of requests received are for information. The bulk of these requests are from members of the public seeking clarification of our mandate. MLAs and their staff also ask for general information pertaining to a Member's obligations under the *Act*.

Requests for Advice

One of the Commissioner's primary roles is that of an adviser to Members. Frequent preliminary requests for opinions are received to ensure Members comply with both the letter and the spirit of the *Act*. The advice may simply be oral or, in appropriate situations, the advice will be given in writing.

We received numerous requests for advice from Members from January 1 to November 1, 2012.

Requests for Formal Opinions or Complaints

The Office receives requests for formal opinions from MLAs or from members of the public. British Columbia is one of only three provinces in Canada where members of the public have direct access to the complaint driven process contained in the *Act*. Initial screening has confirmed that the majority of requests received from the public are non-jurisdictional. Requests that fall within our mandate are first reviewed to determine whether a formal opinion is warranted. We then gather preliminary information to determine whether there are reasonable grounds for the matter to proceed. If so, the Commissioner may proceed to take sworn evidence from the relevant parties leading to a formal written opinion in due course.

Allocation and Spending History for the Last Five Fiscal Years

	2008/09*	2009/10	2010/11	2011/12	2012/13
Budget Request	384,000	440,000	487,600	480,000	480,000
Budget Approved	420,000	440,000	440,000	480,000	480,000
Amount Spent	413,978	382,249	397,160	459,868	
Amount Returned	6,022	57,751	42,840	20,132	

* Due to anticipated shortfall, our Office received $36,000 additional funds to cover the increase in Commissioner's salary/benefits from 0.5 to 0.75 FTE, and the lease costs of a new satellite office

Operating Results for the Current Fiscal Year – 2012/12

As of November 1, 2012, the Ministry of Finance has advised that this Office is currently forecast to be **over budget** by $20,000. Our internal full-year forecast for the 2012/13 fiscal year is projected to be $50,000 over our budget allocation of $480,000. The reasons for the shortfall are:

- In the current fiscal year, the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills undertook a review of the *Act*. The review process had a considerable impact on our Office in terms of research and documentation to assist the Committee in assembling comparative conflict of interest legislation in other Canadian jurisdictions. We produced two major document briefs to the Committee containing potential amendment choices and recommendations. The impact on our contractor salary costs was significant – but the work is among the most important done in the Office since the last such review in 1999.

- After serving the Office with distinction since 1994, our executive coordinator chose to take retirement in the current fiscal year. In monetary terms the impact of that decision has been felt with respect to unexpected retirement benefits and related expenses. At the same time, a successor transitional period for the hand-over to our new executive coordinator has resulted in additional salary and benefit expense.

- In order to retain valuable ongoing administrative support, we have made the necessary decision to convert our administrative assistant to a permanent part-time .6 FTE position with the consequential benefits. This decision was made because of the necessity for continued stability in our work force – given the confidential nature of the work done by our Office. The result will be additional expenses in the last quarter of the current fiscal year.

- The IT work we undertook to fill in previous historical information from the Members' disclosure forms was performed by our project officer. She is a contract member of the staff and the work proved to be more time consuming than expected. The resulting additional cost was a good investment in potential future cost savings from collating and managing the information collected and ultimately reducing clerical administrative expense.

2013/14 Budget Request

In preparing the budget request for 2013/14, we have been mindful of the fact that we are likely to have a busy period in the run-up to the general election. We have very recently received a request for a formal opinion that will impact on our existing human resources and may require an uncertain level of ad hoc legal service expense as well as a potential increase in the time spent by existing contractors in the Office.

We have also taken into account the monetary impact of following up on a consideration of the report expected from the Select Standing Committee dealing with potential reforms to the *Act*. In addition, we have attempted to anticipate the monetary impact of any additional tasks that may be assigned to the Office either as a result of the Committee's report, or otherwise.

Our salary and related costs will always constitute the largest expense to the Office. In the coming fiscal year we will experience for the entire 12-month period the impact of the decision to convert the classification of our administrative assistant to a permanent part-time position. We have also to accommodate the possibility that the Commissioner's salary (which is tied to the salary of the Chief Judge of the Provincial Court) may increase for the first time in three years. There will also be initial IT support expenses incurred in order to process the disclosure information provided by all new Members within 60 days following the finalization of the 2013 May election.

A realistic assessment of all of these considerations, both real and potential, has resulted in a $50,000 line item in the proposed 2013/14 budget request under STOB 85 titled "Other Expenses".

We must issue the usual caveat that if the Office becomes involved in conducting formal and unexpected Inquiries under the *Act*, we reserve the right to approach the Committee with supplementary funding requests.

Respectfully submitted,

Paul. D. K. Fraser, Q.C.
Conflict of Interest Commissioner

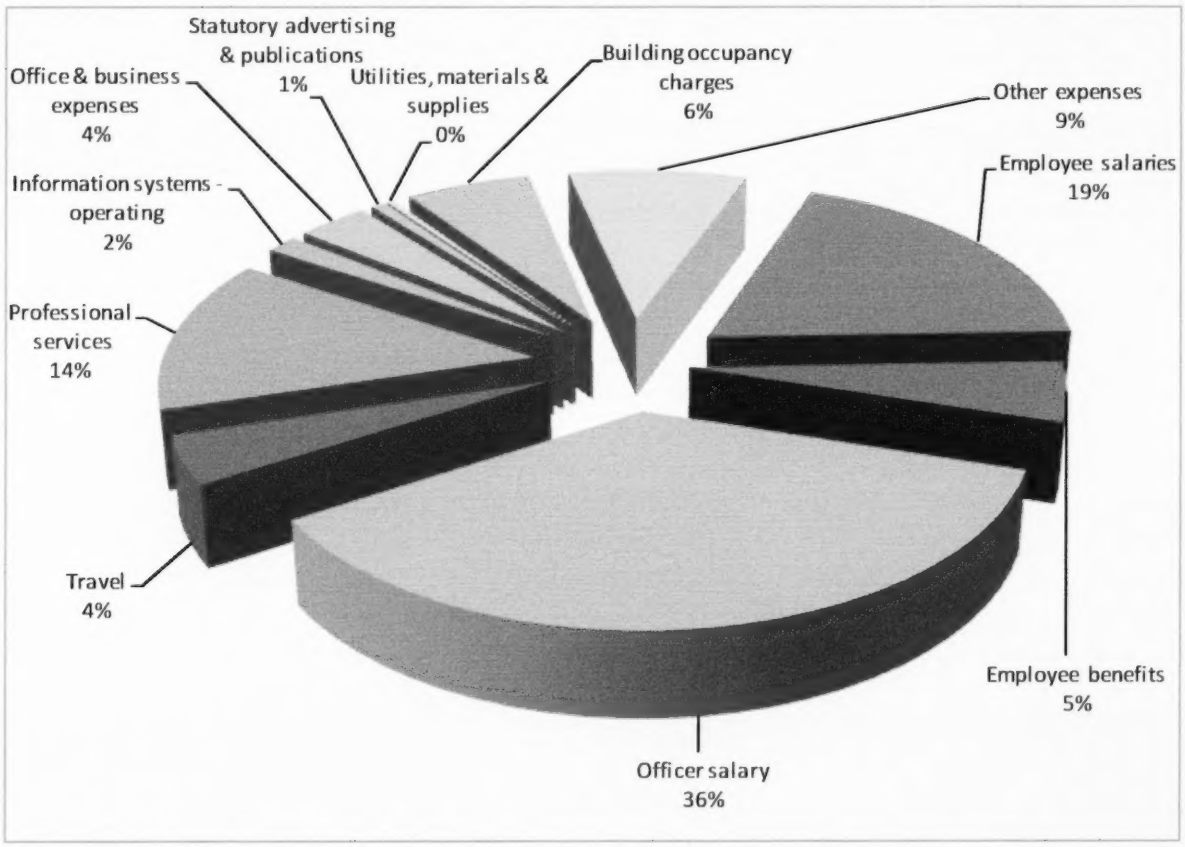
Statement of Operations

	2011/12 Budget $	2011/12 Actual $	2012/13 Budget $
Funding			
Voted appropriation	480,000	480,000	480,000
Other authorizations	0	0	0
Total Funding	480,000	480,000	480,000
Expenses			
Employee salaries	93,000	61,475	64,000
Employee benefits	29,000	18,041	20,000
Officer salary	203,000	201,222	203,000
Total Salaries and Benefits	**325,000**	**280,738**	**287,000**
Travel	20,000	16,576	20,000
Professional services	50,000	79,759	108,000
Information systems - operating	17,000	14,806	12,000
Office and business expenses	20,000	30,787	15,000
Statutory advertising	1,000	336	1,000
Utilities, materials and supplies	1,000	500	2,000
Building occupancy charges	35,000	33,666	35,000
Other expenses	11,000	2,700	0
Total Operating Expenses	**155,000**	**179,130**	**193,000**
TOTAL	**480,000**	**459,868**	**480,000**
Funding Surplus		**20,132**	

Ongoing Operating Budget by Standard Object (STOB)

		2012/13 Budget $	2013/14 Planned $	2014/15 Planned $	2015/16 Planned $
50	Employee salaries	64,000	106,000	106,000	106,000
52	Employee benefits	20,000	30,000	30,000	30,000
54	Officer salary	203,000	203,000	203,000	203,000
57	Travel	20,000	24,000	24,000	24,000
60	Professional services	108,000	77,000	77,000	77,000
63	Information systems - operating	12,000	9,000	9,000	9,000
65	Office and business expenses	15,000	20,000	20,000	20,000
68	Statutory advertising & publications	1,000	4,000	4,000	4,000
69	Utilities, materials and supplies	2,000	2,000	2,000	2,000
75	Building occupancy charges	35,000	35,000	35,000	35,000
85	Other expenses	-	50,000	50,000	50,000
	Total operating budget	**480,000**	**560,000**	**560,000**	**560,000**

2013/14 Budget by Expenditure Type



Notes

A. In the **current** fiscal year we budgeted for total expenses of $480,000. For a variety of reasons, we expect that by the end of **fiscal 2012/13**, our total expenses will likely be $530,000. The overrun is expected to be $50,000 or 10%.

The $50,000 shortfall consists of:

a.	Ad Hoc Legal Services (potential)	$15,000
b.	Salary and benefits (actual)	25,000
c.	Additional contract salary (potential)	5,000
d.	Additional travel & employee recognition expense (potential)	5,000
		$50,000

At the beginning of the **current fiscal year**, our human support resources were:

1 FTE
1 .75 FTE
3 contractors

We budgeted $395,000 for salaries and benefits for all employees.

At the end of the **current fiscal year**, our human resources will be:

1 FTE
1 .75 FTE
1 .6 FTE
2 contractors

We anticipate spending $420,000 for salaries and benefits, a $25,000 increase above budget or 6%.

B. In **fiscal 2013/14** we are budgeting $416,000 for salaries and benefits, representing an increase of $21,000 or 5% from 2012/13.

Excerpt from

Select Standing Committee on Finance and Government Services'

Annual Review of the Budgets of the

Independent Legislative Offices

December 2012

Office of the Conflict of Interest Commissioner

> *"We have in this period of time the ability to be able to look into the future to some extent and realize that, for the fiscal period which is about to begin on April 1, there are expensive items, at least on the horizon."* (Paul Fraser, QC, Conflict of Interest Commissioner for British Columbia)

Background

As an officer of the Legislative Assembly appointed under the *Members' Conflict of Interest Act*, the Conflict of Interest Commissioner performs three separate but related roles that include: advising Members of the Legislative Assembly on their obligations for conduct; meeting with MLAs at least annually to review the disclosures of financial interests and the general obligations imposed by the Act; and providing opinions in response to requests from MLAs or members of the public respecting compliance or alleged contraventions of the Act.

The yearly appropriation for the office is provided under Vote 3 of the annual *Estimates*. Last year, the Committee recommended that the annual operating budget be $480,000 in each of the next three fiscal years.

Budget Proposal Fiscal Years 2013/14 – 2015/16

The office's budget proposal covering the next three fiscal years was reviewed by the Committee on November 14, 2012. In attendance were Paul Fraser, Conflict of Interest Commissioner; and Daphne Thompson and Linda Pink, Executive Coordinators.

The Commissioner began the presentation by reviewing changes to office staffing. The Committee learned that Ms. Pink has been hired as Executive Coordinator to replace Ms. Thompson, who is retiring after working in the office since 1994.

Next, the Commissioner reported that the office is currently forecasting a cost overrun of $50,000 for 2012/13 as a result of costs relating to the review of the *Members' Conflict of Interest Act*, the coordinator's retirement, and the conversion of a contracted administrative assistant to a permanent 0.6 FTE position. The Commissioner also mentioned additional costs relating to the transition to the new Members' disclosure forms.

Turning to the operating budget request of $560,000 for the coming fiscal year, the Commissioner outlined potential costs, which include fulfilling a request for a formal opinion, providing services for new MLAs elected in the 2013 provincial general election, and implementing possible statutory changes. It was also observed that additional ongoing expenses are anticipated from the re-classification of the administrative assistant and possible increases to the Commissioner's salary, which is tied to the salary of the Chief Judge of the Provincial Court.

Committee Inquiry

The committee inquiry focused on the budget line item for "other expenses", the request for a formal opinion, and expenses relating to travel and the maintenance of a satellite office in Surrey. Other topics raised included services for outgoing MLAs and the budget for statutory advertising and publications.

STOB 85 "Other Expenses"

The Commissioner was asked why the request for $50,000 in the 2013/14 budget was listed under STOB 85 "Other expenses" rather than broken down within specific budget line items. The Commissioner stated that the total amount requested for salary and benefits going forward is $416,000 and that there is some confusion on the reporting as a result of Ministry of Finance definitions of standard objects of expenditure, particularly around "professional services".

Request for Formal Opinion

Members also queried whether the recent request for a formal opinion would be covered in the current budget or be carried over into 2013/14. The Commissioner replied that it is possible that the request could carry over into the next fiscal year and be part of the $50,000 request for "other expenses."

Travel and Surrey Office Expenses

Asked about the projected increase in the operating budget for travel costs, the Commissioner explained that the travel budget is mostly used for ferry travel between Victoria and the Lower Mainland, along with some expenses for conferences. A question was also posed about the satellite office in Surrey. The Commissioner stated that it is unstaffed and available for meetings with Members in the Lower Mainland, and has helped to reduce other travel costs.

Conclusions and Recommendations

The Committee acknowledges the important work performed by the Office of the Conflict of Interest Commissioner and is prepared to approve a small increase in the budget plan, but not the request for unconfirmed "other expenses" at this time of fiscal restraint.

The Committee recommends that:

- the annual appropriation for the operating expenses of the Office of the Conflict of Interest Commissioner be $510,000 in each of the next three fiscal years.